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13  
 14 UNITED STATES DISTRICT COURT  
 15 DISTRICT OF NEVADA

16 ROBERT ARMIJO,

17 Plaintiff,

18 v.

19 OZONE NETWORKS, INC. d/b/a OPENSEA,  
 a New York Corporation, YUGA LABS LLC  
 20 d/b/a BORED APE YACHT CLUB, a Delaware  
 limited liability company; LOOKSRARE; and  
 21 DOES 1to 50,

22 Defendants.

Case No.: 3:22-cv-00112-MMD-CLB

**DEFENDANT YUGA LABS' REQUEST  
 FOR JUDICIAL NOTICE IN SUPPORT  
 OF MOTION TO DISMISS PLAINTIFF'S  
 COMPLAINT**

Pursuant to Federal Rule of Evidence 201 and Federal Rule of Civil Procedure 44.1, defendant Yuga Labs respectfully requests that the Court consider the following document, attached as Exhibit A to the Declaration of Jennifer Bretan in support of its Motion to Dismiss:

**Exhibit A:** The March 25, 2022 judgment in *Tulip Trading Ltd. v. Bitcoin Ass'n for BSV & Others* [2022] EWHC 667 (Ch) BL-2021-000313, in the High Court of Justice, Business and Property Courts of England and Wales, holding that Bitcoin software developers do not owe a common law duty of care to protect cryptocurrency owners from fraud that leads to loss of crypto assets.

The Court may take judicial notice of materials outside of the Complaint that are not subject to reasonable dispute because they “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *see also* NRS 47.130 (under Nevada law, Court may take judicial notice of any fact that is “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute.”). Courts routinely take judicial notice of matters of public record, including pleadings and judgments in other actions. *See, e.g., Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (judicial notice of court filings and other matters of public record is proper); *see also Sprague & Rhodes Commodity Corp. v. Instituto Mexicano Del Cafe*, 566 F.2d 861, 862 (2d Cir. 1977) (Rule 201 permits a court to take judicial notice of a foreign judgment).<sup>1</sup>

Moreover, courts may consider issues of foreign law pursuant to Federal Rule of Civil Procedure 44.1, regardless of whether it is admissible under the Federal Rules of Evidence. *See de Fontbrune v. Wofsy*, 838 F.3d 992, 1000 (9th Cir. 2016) (holding that courts may consider foreign legal materials at the pleading stage pursuant to FRCP 44.1). Given the global nature and relative novelty of issues relating to the blockchain, and the common origin and approach to tort law, the decision is of note here.

For these reasons, Yuga Labs respectfully requests that the Court grant its Request and consider Exhibit A to the Bretan Declaration.

<sup>1</sup> Yuga Labs does not offer *Tulip Trading* for the truth of any matters asserted in that litigation, but rather contends that the Court may take judicial notice of the fact of that litigation and related judgment to such issues under foreign law in determining the motion to dismiss.

1 Dated: June 3, 2022

FENWICK & WEST LLP

2 By: /s/ Jennifer C. Bretan

3 Jennifer C. Bretan

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25 *Attorneys for Defendant Yuga Labs*  
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**CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b) and Electronic Filing Procedure IV(B), I certify that on June 3, 2022, a true and correct copy of **DEFENDANT YUGA LABS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS PLAINTIFF'S COMPLAINT** was transmitted electronically through the Court's CM/ECF e-filing electronic notice system to all attorneys associated with the above-captioned case.

/s/ Jennifer C. Bretan

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